

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

BRUCE FERRELL; LESLIE KEVIN)
BILLINGSLEY; ABDUL BROWN;)
GARY WILLIAMS; ANTHONY ALLEN;) Civil Action No. 04-1806
and SHAWN JACKSON,)
)
Plaintiffs,) Magistrate Judge Lenihan
)

vs.

) Doc. Nos. 136, 137
JEFFREY A. BEARD, PH.D.,)
Secretary; JOHN S. SHAFFER,)
Executive Secretary; LANCE)
COUTURIER, Chief Psychologist;)
FRED MAUE, Chief Psychiatrist;)
SHARON BURK, Chief Grievance)
Coordinator; JOHN DOE, Director)
of Classification; NEAL MECHLING,)
Ex-Superintendent; HARRY WILSON,)
Superintendent; CAROL A. SCIRE,)
Grievance Coordinator; L. D.)
HARRIS, Deputy Superintendent;)
and MARK KRYSEVIG, Deputy)
Superintendent sued in official)
and individual capacities under)
state color of the law,)
)
Defendants.)

ORDER

Plaintiff Bruce Ferrell has filed a motion requesting the court to "stop the defendants...from preventing the plaintiff from using the law library...." He further alleges that this action is retaliatory. If this is indeed happening then plaintiff needs to file a grievance with the facility to address this issue. Just because a complaint is filed does not justify the court's involvement in the operations of the prison. Plaintiff

seems to aver that he wants to use the law library seven days a week. While there is a right of access to the courts, that right does not require access to the law library seven days a week. Plaintiff does not aver that he is being precluded from any specific filing in this case by this alleged retaliatory conduct.


Plaintiff's second motion requests the court to clarify the issue regarding representation by counsel and the filing of documents by counsel. Plaintiff's requested that this action be filed as a class action and requested that the court appoint counsel for that purpose. The court appointed attorney Phyllis Jin. Attorney Jin determined that this action does not merit class certification. The court agrees with this determination. A class action cannot be maintained without counsel. As Attorney Jin does not believe it is ethical and proper to pursue this case as a class action, she is under no obligation to pursue it, regardless of what plaintiff's believe.

Plaintiffs have been so advised by the court on numerous occasions for months now, and told that they may file individual complaints. Rather than doing this, they continue to file motion after motion on their own. Plaintiff's asked the court to assist them in contacting counsel. The Court did so. It is at a loss as to what it can do to further this process.

Attorney Jin was ordered by this Court to file a written motion to withdraw this action no later than May 2. If that does

not occur the court will enter a show cause order why the action should not be dismissed. Therefore,

IT IS ORDERED this 27th day of April, 2007, that Plaintiffs' Motions filed a docket numbers 136 and 137 are **DENIED**.



LISA PUPO LENIHAN
U.S. Magistrate Judge

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